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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2010-662**

12 **CHRISTINE MARIE NOWICKI**
13 **4956 Narragansett Avenue**
14 **San Diego, CA 92107**

ACCUSATION

15 **Registered Nurse License No. 748793**

16 **Respondent.**

17
18 **Complainant alleges:**

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about April 9, 2009, the Board of Registered Nursing issued Registered Nurse
24 License Number 748793 to Christine Marie Nowicki (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on August 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) of the Code provides, in pertinent part, that each license not renewed shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of non-payment of the renewal fee.

STATUTORY PROVISIONS

7. Section 2761, subdivision (a), states that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

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4 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
5 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
6 section."

7 9. Code section 4060 states, in pertinent part:

8 "No person shall possess any controlled substance, except that furnished to a person
9 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
10 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
11 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
12 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,
13 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
14 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
15 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
16 pharmacist, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
17 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
18 with the name and address of the supplier or producer . . .

19 10. Health and Safety Code section 11170 states that no person shall prescribe,
20 administer, or furnish a controlled substance for himself.

21 11. Health and Safety Code section 11173, subdivision (a) states, in pertinent part, that
22 "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to
23 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
24 misrepresentation, or subterfuge . . ."

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COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

13. Hydrocodone bitartrate/acetaminophen, also known by the brand names Vicodin, Norco, Zydane, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is used as a narcotic analgesic in the relief of pain.

14. Lorazepam, sold under the brand name Ativan, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(16), and is a dangerous drug pursuant to Business and Professions Code section 4022. Lorazepam is used in the treatment of anxiety disorders and for short-term (up to 4 months) relief of the symptoms of anxiety.

FACTUAL ALLEGATIONS

15. Respondent was employed as a traveling registered nurse by AMN HealthCare from November 2008 until March 2009, assigned to Palomar Medical Center (PMC), Escondido, California. On or about March 5, 2009, during a routine Pyxis¹ User Audit at PMC, it was noted that Respondent was withdrawing more Vicodin and Ativan than her co-workers. A review of patient records and the Pyxis Activities for 11 shifts worked by Respondent during the month of February 2009 at PMC, revealed that Respondent made inaccurate entries in hospital and patient

¹ Pyxis" is a trade name for the automatic single-unit dose medication dispensing system that records information such as patient name, physician orders, date and time medication was withdrawn, and the name of the licensed individual who withdrew and administered the medication. Each user/operator is given a user identification code to operate the control panel. Sometimes only portions of the withdrawn narcotics are given to the patient. The portions not given to the patient are referred to as "wastage." This waste must be witnessed by another authorized user and is also recorded by the Pyxis machine.

1 medical records, charted that she administered narcotic medications to patients with "0" pain
2 levels, failed to assess and chart the pain levels of patients receiving pain medication, charted the
3 administering of medications before their removal from Pyxis, charted the administering of
4 medications more frequently than the 4 to 6 hours as ordered by the physician(s), and withdrew
5 from Pyxis Hydrocodone and Lorazepam tablets that Respondent did not chart and was unable to
6 account for, as follows:

7 16. Patient FIN 9016857:

8 a. Physician's order(s) for this patient were as follows: Lorazepam 0.5mg every 4
9 hours as needed.

10 b. On February 3, 2009, at 0931 hours, Respondent withdrew from Pyxis one (1)
11 0.5mg tablet Lorazepam and charted on the MAR that she administered the medication at 0945
12 hours. The medication was charted as having been given by IV versus a tablet by mouth.

13 c. On February 3, 2009, at 1208 hours, Respondent withdrew from Pyxis one (1)
14 0.5mg tablet Lorazepam and charted on the MAR that she administered the medication at 1207
15 hours, 2 hours and 22 minutes after the first dose, not every 4 hours per the physician's orders.

16 d. On February 3, 2009, at 1626 hours, Respondent withdrew from Pyxis one (1)
17 0.5 mg. tablet Lorazepam and charted on the MAR that she administered the medication at 1600
18 hours, 26 minutes before the medication was removed from Pyxis.

19 e. Summary: Respondent removed three (3) 0.5 mg. tablets of Lorazepam, three
20 (3) 0.5mg tablets were charted as given, and one (1) tablet is unaccounted for.

21 17. Patient FIN 9013540:

22 a. The physician's order(s) for this patient were as follows: Hydrocodone 5-
23 500mg 1-2 tablets every 4 hours as needed.

24 b. On February 3, 2009, at 0802 hours, Respondent withdrew from Pyxis two (2)
25 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
26 at 0830 hours.

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1 c. On February 3, 2009, at 1230 hours, Respondent withdrew from Pyxis two (2)
2 5/500 tablets of Hydrocodone and charted on the MAR that the medication was administered on
3 the same date at 1200 hours. Pain assessment of "0" was charted 30 minutes before removal.

4 d. On February 3, 2009, at 1357 hours, Respondent wasted two (2) 5/500 tablets
5 of Hydrocodone.

6 e. On February 3, 2009, at 1358 hours, Respondent withdrew two (2) 5/500 mg
7 and charted on the MAR that the medication was administered at 1650 hours. This medication
8 was removed one minute after waste detailed at paragraph 16(d) and administered approximately
9 three (3) hours after withdrawal, while pain assessment of "0" was charted.

10 f. Summary: Respondent removed six (6) 5/500 tablets of Hydrocodone, charted that
11 she administered six (6), and charted the wasting of two (2) tablets. Respondent charted
12 administering two (2) tablets thirty minutes before she removed them (see paragraph 16(c)).

13 18. Patient FIN 9018413:

14 a. The physician's order(s) for this patient were as follows: Lorazepam 4mg
15 every six (6) hours as needed for anxiety.

16 b. On February 3, 2009, at 1037 hours, Respondent withdrew from Pyxis one (1)
17 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
18 at 1030 hours, seven minutes prior to the removal of the medication from Pyxis at 0830 hours.

19 19. Patient FIN 9018013:

20 a. The physician's order(s) for this patient were as follows: Hydrocodone 5-
21 500mg 1 tablet every 4 hours as needed.

22 b. On February 5, 2009, at 0738 hours, Respondent withdrew from Pyxis two (2)
23 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
24 at 0800 hours. There was no pain assessment charted, and two (2) tablets were withdrawn instead
25 of one (1) tablet, per the physician's orders.

26 c. On February 5, 2009, at 1114 hours, Respondent withdrew from Pyxis two (2)
27 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
28 at 1200 hours. There was no pain assessment charted, two (2) tablets were withdrawn instead of

1 one (1) tablet, per the physician's orders, and the medication was administered 45 minutes after
2 removal.

3 d. On February 5, 2009, at 1633 hours, Respondent withdrew from Pyxis two (2)
4 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
5 at 1700 hours. There was no pain assessment charted, two (2) tablets were withdrawn instead of
6 one (1) tablet, per the physician's orders.

7 e. On February 6, 2009, at 0825 hours, Respondent withdrew from Pyxis two (2)
8 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
9 at 0745 hours. There was a pain assessment given 40 minutes prior to removal. Two (2) tablets
10 were withdrawn instead of one (1) tablet, per the physician's orders.

11 f. On February 6, 2009, at 1057 hours, Respondent withdrew from Pyxis two (2)
12 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
13 at 1100 hours. There was no pain assessment charted prior to the removal of the medication; it
14 was charted as given three (3) minutes after the removal. Two (2) tablets were withdrawn instead
15 of one (1) tablet, per the physician's orders, and charted as given more frequently than every four
16 (4) hours per physician's orders.

17 g. On February 6, 2009, at 1502 hours, Respondent withdrew from Pyxis two (2)
18 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
19 at 1536 hours. There was no pain assessment charted, and two (2) tablets were withdrawn instead
20 of one (1) tablet, per the physician's orders.

21 h. On February 6, 2009, at 1752 hours, Respondent withdrew from Pyxis two (2)
22 5/500mg tablets of Hydrocodone and not charted on the MAR as having been administered to the
23 patient. There was no pain assessment charted, and two (2) tablets were withdrawn instead of one
24 (1) tablet, per the physician's orders. There are two (2) 5/500mg Hydrocodone tablets
25 unaccounted for.

26 g. On February 16, 2009, at 0914 hours, Respondent withdrew from Pyxis two
27 (2) 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was
28 administered at 0800 hours. There was no pain assessment charted, two (2) tablets were

1 withdrawn instead of one (1) tablet, per the Physician's Orders, and the medication was charted as
2 being administered 74 minutes before removal.

3 h. On February 16, 2009, at 1201 hours, Respondent withdrew from Pyxis two
4 (2) 5/500mg tablets of Hydrocodone and not charted as given. There was no pain assessment
5 charted, and two (2) tablets were withdrawn instead of one (1) tablet per the physician's orders.
6 Two (2) tablets of Hydrocodone are unaccounted for.

7 i. Summary: On February 5, 2009, Respondent removed six (6) 5/500mg. tablets
8 of Hydrocodone; six (6) were charted as given with no pain assessment charted. On February 6,
9 2009, Respondent removed eight (8) 5/500mg tablets of Hydrocodone, six (6) charted as given
10 with no pain assessment and two (2) tablets unaccounted for. On February 16, 2009, Respondent
11 removed four (4) 5/500mg. tablets of Hydrocodone, two (2) were charted as given with no pain
12 assessment charted and two tablets are unaccounted for.

13 20. Patient FIN 8981168:

14 a. The physician's order(s) for this patient were as follows: Vicodin 1-2
15 5-500mg tablets every four (4) hours as needed.

16 b. On February 5, 2009, at 0904 hours, Respondent withdrew from Pyxis two (2)
17 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
18 at 0946 hours. There was no pain assessment charted, and the medication was charted as
19 administered 42 minutes after removal.

20 c. On February 5, 2009, at 1151 hours, Respondent withdrew from Pyxis two (2)
21 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
22 at 1230 hours. The pain assessment was charted as "2" and the medication was charted as given
23 39 minutes after removal.

24 d. On February 5, 2009, at 1704 hours, Respondent withdrew from Pyxis two (2)
25 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
26 at 1748 hours. There was no pain assessment charted and the medication was charted as given
27 44 minutes after removal.

1 e. Summary: Pyxis Patient Activity Report indicates one (1) tablet was removed
2 on February 3, 2009 at 0258 hours, one (1) tablet on February 4, 2009, at 1202 hours, and one (1)
3 tablet on February 5, 2009, at 0407 hours. On February 5, 2009, Respondent removed six (6)
4 tablets, and six (6) were charted as given without a pain assessment.

5 21. Patient FIN 9019895:

6 a. The physician's order(s) for this patient were as follows: Vicodin 5-500mg
7 1-2 tablets every 4 hours as needed for moderate to severe pain (4-10 of 10).

8 b. On February 6, 2009, at 0805 hours, Respondent withdrew from Pyxis two (2)
9 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
10 at 0853 hours. The pain assessment was charted as "4" and the medication was charted as having
11 been administered 48 minutes after removal.

12 c. On February 6, 2009, at 1233 hours, Respondent withdrew from Pyxis two (2)
13 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
14 at 1245 hours. The pain assessment was not charted.

15 d. On February 6, 2009, at 1619 hours, Respondent withdrew from Pyxis two (2)
16 5/500mg tablets of Hydrocodone and charted on the MAR that the medication was administered
17 at 1623 hours. The pain assessment was not charted.

18 e. Summary: No pain assessments were charted for the 1245 and 1623
19 administrations.

20 22. Patient FIN 9024432:

21 a. The physician's order(s) for this patient were as follows: Lorazepam 0.5mg
22 every four (4) hours as needed for anxiety, and Vicodin 5/500mg, 1-2 tablets every four (4) hours
23 as needed for moderate/severe pain (4-10 of 10).

24 b. On February 12, 2009, at 0757 hours, Respondent withdrew from Pyxis one (1)
25 0.5mg tablet of Lorazepam and charted on the MAR that the medication was she administered
26 0.5mg Ativan at 0813 hours. No issue.

27 c. On February 12, 2009, at 0830 hours, Respondent charted on the MAR that she
28 administered 0.5mg Ativan to the patient. There is no record of removal of Ativan from Pyxis.

1 d. On February 12, 2009, at 0832 hours, Respondent withdrew from Pyxis one (1)
2 5/500mg tablet Hydrocodone and charted on the MAR that the medication was administered at
3 0845 hours. The pain assessment charted at "0" at 0700 hours.

4 e. On February 12, 2009, at 0914 hours, Respondent withdrew from Pyxis one (1)
5 5/500mg tablet of Hydrocodone and charted on the MAR that the medication was administered at
6 0900 hours. The pain assessment was charted as "0" at 0800 hours and 1200 hours and the
7 medication was charted as given 14 minutes before removal and given more frequently than every
8 four (4) hours.

9 f. On February 12, 2009, at 1143 hours, Respondent withdrew from Pyxis two (2)
10 5/500mg tablet of Hydrocodone and charted on the MAR that the medication was administered at
11 1230 hours. The pain assessment was charted as "0" at 0800 hours and 1200 hours and the
12 medication was charted as given 47 minutes after removal and given more frequently than every
13 four (4) hours.

14 g. On February 12, 2009, at 1531 hours, Respondent withdrew from Pyxis two (2)
15 5/500mg tablets of Hydrocodone and charted on the MAR as having been given at 1545 hours.
16 The pain level charted as "3" at 1500 hours and given more frequently than every four (4) hours.

17 h. On February 12, 2009, at 1801 hours, Respondent withdrew from Pyxis one (1)
18 0.5mg tablet Lorazepam and charted on the MAR that the medication was administered at 1749
19 hours. The medication was charted as given 12 minutes before removal.

20 i. On February 12, 2009, at 1848 hours, Respondent withdrew from Pyxis one (2)
21 5/500 tablets of Hydrocodone and charged on the MAR that the medication was administered at
22 1914 hours.

23 j. Respondent removed eight (8) 5/500mg tablets of Hydrocodone, eight (8)
24 tablets are charted as given with pain level less than "4", one (1) tablet charted as given prior to
25 removal, two (2) tablets charted as given 47 minutes after removal. Respondent also removed
26 two (2) tablets of Lorazepam and charted the administering of three (3) 0.5mg tablets and one (1)
27 0.5mg tablet was charted as given 12 minutes before it was removed.

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1 23. Patient FIN 9024476:

2 a. The physician's order(s) for this patient were as follows: Vicodin 5/500mg
3 tablet every four (4) hours as needed for severe pain.

4 b. On February 12, 2009, at 1218 hours, Respondent withdrew from Pyxis one (1)
5 5/500mg tablet of Hydrocodone charted on the MAR that she administered the medication at
6 1215 hours. Pain assessment was charted as 7, and the administration of the medication as
7 charted as having been given three minutes after removal.

8 c. On February 12, 2009, at 1631 hours, Respondent withdrew from Pyxis one (1)
9 5/500mg tablet of Hydrocodone charted on the MAR that she administered the medication at
10 1630 hours. Pain assessment was charted as 6 by someone other than Respondent.

11 d. On February 12, 2009, at 1857 hours, Respondent withdrew from Pyxis one (1)
12 5/500mg tablet of Hydrocodone charted on the MAR that she administered the medication at
13 1915 hours. Pain assessment was charted as 9, and the medication was administered more
14 frequently than every 4 hours.

15 e. Summary: The time between the second and third dose is 2 hours and 45
16 minutes.

17 24. Patient FIN 9025586:

18 a. The physician's order(s) for this patient were as follows: Lorazepam 0.5mg
19 every six (6) hours as needed for anxiety.

20 b. On February 16, 2009, at 0820 hours, Respondent withdrew from Pyxis one (1)
21 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 0845
22 hours.

23 c. On February 16, 2009, at 1406 hours, Respondent withdrew from Pyxis one (1)
24 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1420
25 hours.

26 d. On February 16, 2009, at 1637 hours, Respondent withdrew from Pyxis one (1)
27 0.5mg tablet of Lorazepam and "wasted" it at 1819 hours. The wastage was witnessed by witness
28 ID #22849.

1 e. On February 16, 2009, at 1820 hours, Respondent withdrew from Pyxis one (1)
2 0.5mg tablet of Lorazepam and not charted as given to the patient. One (1) 0.5mg tablet of
3 Lorazepam is unaccounted for.

4 f. On February 17, 2009, at 0758 hours, Respondent withdrew from Pyxis one (1)
5 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 0800
6 hours.

7 g. On February 17, 2009, at 1201 hours, Respondent withdrew from Pyxis two (2)
8 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1200
9 hours. This medication was charted as given more frequent than every six (6) hours.

10 h. On February 17, 2009, at 1624 hours, Respondent withdrew from Pyxis two (2)
11 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1445
12 hours, ninety-nine (99) minutes prior to removal and less than every six (6) hours per the
13 Physician's Order (2 hours, 45 minutes).

14 i. On February 17, 2009, at 1837 hours, Respondent "wasted" one (1) 0.5mg
15 tablet of Lorazepam. The wastage was witnessed by Witness I.D. # 20669. There is no record of
16 withdrawal from Pyxis for the wasted medication.

17 j. On February 17, 2009, at 1838 hours, Respondent withdrew from Pyxis two (2)
18 0.5mg tablets of Lorazepam and not charted as given to the patient. There is no record of
19 wastage. Two (2) tablets of Lorazepam are unaccounted for.

20 k. Summary: On February 16, 2009, Respondent removed four (4) 0.5 mg. tablets
21 of Lorazepam, with two (2) charted as administered, one (1) wasted, and one (1) unaccounted for.
22 On February 17, 2009, Respondent removed seven (7) 0.5mg. tablets of Lorazepam, with five (5)
23 charted as administered, one (1) charted as wasted, one (1) given more frequently than every six
24 (6) hours, an two (2) unaccounted for.

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1 25. Patient FIN 9024043:

2 a. The physician's order(s) for this patient were as follows: Hydrocodone
3 5/500mg, 2 tablets every six (6) hours as needed.

4 b. On February 20, 2009, at 0807 hours, Respondent withdrew from Pyxis two (2)
5 5/500mg tablet of Hydrocodone and charted on the MAR that she administered the medication at
6 0800 hours. The pain assessment was charted as "0" and the medication given before removed.

7 c. Summary: The medication was charted as given to the patient with "0" level of
8 pain.

9 26. Patient FIN 9027194:

10 a. The physician's order(s) for this patient were as follows: Hydrocodone
11 5/500mg, 1-2 tablets every four (4) hours as needed for severe to moderate pain.

12 b. On February 20, 2009, at 0847 hours, Respondent withdrew from Pyxis two (2)
13 5/500mg tablet of Hydrocodone and charted on the MAR that she administered the medication at
14 0900 hours. The pain assessment was charted as "0."

15 c. On February 20, 2009, at 1344 hours, Respondent withdrew from Pyxis two (2)
16 5/500mg tablet of Hydrocodone and charted on the MAR that she administered the medication at
17 1340 hours. The pain assessment was charted as "0."

18 27. Patient FIN 9031718:

19 a. The physician's order(s) for this patient were as follows: Lorazepam 0.5 mg.
20 every four (4) hours as needed for anxiety; Hydrocodone 5/500mg, 1 (one) tablet every four (4)
21 hours as needed.

22 b. On February 26, 2009, at 0831 hours, Respondent withdrew from Pyxis one (1)
23 0.5mg Lorazepam and charted on the MAR that she administered the medication at 0941 hours,
24 seventy (70) minutes after removal.

25 c. On February 26, 2009, at 1114 hours, Respondent withdrew from Pyxis one (1)
26 5/500mg tablet of Hydrocodone and charted on the MAR that she administered the medication at
27 1126 hours. The pain assessment was charted as "5" at 1100 hours.

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1 d. On February 26, 2009, at 1249 hours, Respondent withdrew from Pyxis one (1)
2 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1300
3 hours. This medication was given more frequently than every four (4) hours by 41 minutes.

4 e. On February 26, 2009, at 1600 hours, Respondent withdrew from Pyxis one (1)
5 5/500mg tablet of Hydrocodone and charted on the MAR that she administered the medication at
6 1606 hours. There was no pain assessment charted.

7 f. On February 26, 2009, at 1728 hours, Respondent withdrew from Pyxis one (1)
8 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1900
9 hours. This medication was charted as given 1 hour 32 minutes after removal.

10 g. On February 26, 2009, at 1914 hours, Respondent withdrew from Pyxis one (1)
11 5/500mg tablet of Hydrocodone. This medication was not charted as given to the patient and
12 there was no pain assessment charted. One (1) tablet of Hydrocodone is unaccounted for.

13 h. On February 26, 2009, at 1915 hours, Respondent withdrew from Pyxis one (1)
14 0.5mg tablet of Lorazepam. This medication was not charted as given to the patient. One (1)
15 0.5mg tablet of Lorazepam is unaccounted for.

16 i. Summary: Respondent removed three 5/500mg tablets of Hydrocodone, two
17 (2) were charted as given and one (1) is unaccounted for. Respondent removed four (4) 0.5mg
18 tablets of Lorazepam, three (3) were charted as given and one (1) is unaccounted for. On one
19 occasion, Respondent charted giving one (1) 0.5mg tablet 71 minutes after it was removed, on a
20 second occasion, Respondent charted giving one (1) 0.5mg tablet 1 hour 32 minutes after it was
21 removed.

22 28. Patient FIN 9032615:

23 a. The physician's order(s) for this patient were as follows: Vicodin 5/500mg 1-2
24 tablets every four (4) hours as needed for moderate to severe pain (4-10).

25 b. On February 26, 2009, at 0801 hours, Respondent withdrew from Pyxis two (2)
26 5/500mg tablets of Hydrocodone and charted on the MAR that she administered one (1) tablet at
27 0830 hours. The pain assessment is unreadable. One (1) 5/500mg tablet of Hydrocodone is
28 unaccounted for.

1 c. On February 26, 2009, at 1130 hours, Respondent withdrew from Pyxis two (2)
2 5/500mg tablets of Hydrocodone and charted on the MAR that she administered two (2) tablets at
3 1200 hours. There was no pain assessment charted and the medication was charted as given more
4 frequently than every four hours (3 hrs. 30 minutes).

5 d. On February 26, 2009, at 1422 hours, Respondent withdrew from Pyxis two (2)
6 5/500mg Hydrocodone and charted on the MAR that she administered two (2) tablet at 1500
7 hours. No pain assessment was charted and the medication was charted as given more frequently
8 than every four hours (3 hours).

9 e. Summary: Respondent removed six (6) 5/500mg tablets of Hydrocodone, five
10 (5) tablets were charted as given, and one (1) tablet is unaccounted for. The second and third
11 doses were given less than every four (4) hours as ordered by the physician. The pain
12 assessments were unreadable or not charted.

13 29. Patient FIN 9033252:

14 a. The physician's order(s) for this patient were as follows: Vicodin 1-2 5/500mg
15 tablets every four (4) hours for moderate to severe pain; Lorazepam 0.5 mg. every four (4) hours
16 as needed for anxiety.

17 b. On February 26, 2009, at 1041 hours, Respondent withdrew from Pyxis two (2)
18 5/500 tablets of Hydrocodone and charted on the MAR that she administered the medication at
19 1106 hours. The medication was charted as given when the pain level was at "0."

20 c. On February 26, 2009, at 1041 hours, Respondent withdrew from Pyxis one (1)
21 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1107
22 hours.

23 d. On February 26, 2009, at 1558 hours, Respondent withdrew from Pyxis two (2)
24 5/500 tablets of Hydrocodone and charted on the MAR that she administered the medication at
25 1607 hours. The medication was charted as given when the pain level was at "0."

26 e. On February 26, 2009, at 1558 hours, Respondent withdrew from Pyxis one (1)
27 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1607
28 hours.

1 f. On February 26, 2009, at 1558 hours, Respondent withdrew from Pyxis two (2)
2 5/500 tablets of Hydrocodone and charted on the MAR that she administered the medication at
3 1607 hours. The medication was charted as given when the pain level was at "0."

4 g. On February 26, 2009, at 1856 hours, Respondent withdrew from Pyxis two (2)
5 5/500 tablets of Hydrocodone and charted on the MAR that she administered the medication at
6 1945 hours. The medication was charted as given when the pain level charted was at "0," charted
7 as given more frequently than every four (4) hours (3 hours) as ordered by the physician, and
8 charted as given 49 minutes after removal.

9 h. On February 26, 2009, at 1857 hours, Respondent withdrew from Pyxis one (1)
10 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1946
11 hours. The medication was charted as given more frequently than every four (4) hours (3 hours),
12 and charted as given 49 minutes after removal.

13 i. Summary: Respondent removed six (6) 5/500mg tablets of Hydrocodone, six
14 (6) tablets were charted as given with "0" pain levels. The time between the second and third
15 doses were given less than every four (4) hours as ordered by the physician. Respondent removed
16 three (3) 0.5mg tablets of Lorazepam, three (3) tablets were charted as given and the time
17 between the second and third does were given less than every four hours as ordered by the
18 physician.

19 30. Patient FIN 9032866:

20 a. The physician's order(s) for this patient were as follows: Lorazepam 0.5 mg.
21 every four (4) hours as needed for anxiety.

22 b. On February 27, 2009, at 1059 hours, Respondent withdrew from Pyxis one (1)
23 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1107
24 hours.

25 c. On February 26, 2009, at 1302 hours, Respondent "wasted" one (1) 0.5mg
26 Lorazepam tablet, witnessed by CMG8. This was possibly the tablet withdrawn as described in
27 paragraph 28(b).

28 ///

1 d. On February 27, 2009, at 1318 hours, Respondent withdrew from Pyxis one (1)
2 0.5mg tablet of Lorazepam and not charted as having been given to the patient. One (1) 0.5mg
3 tablet of Lorazepam is unaccounted for.

4 c. On February 27, 2009, at 1636 hours, Respondent withdrew from Pyxis one (1)
5 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1643
6 hours.

7 f. On February 27, 2009, at 1856 hours, Respondent withdrew from Pyxis one (1)
8 0.5mg tablet of Lorazepam and not charted as having been to the patient. One (1) 0.5mg tablet of
9 Lorazepam is unaccounted for.

10 g. Summary: Respondent removed four (4) 0.5mg tablets of Lorazepam, two (2)
11 tablets are charted as given, two (2) tablets are unaccounted for, and one (1) tablet wasted.

12 31. Patient FIN 9032925:

13 a. The physician's order(s) for this patient were as follows: Lorazepam 0.5 mg.
14 every four (4) hours as needed for anxiety.

15 b. On February 27, 2009, at 1722 hours, Respondent withdrew from Pyxis one (1)
16 0.5mg tablet of Lorazepam and charted on the MAR that she administered the medication at 1845
17 hours (1 hour and 23 minutes after removal).

18 c. On February 27, 2009, at 1859 hours, Respondent withdrew from Pyxis one (1)
19 0.5mg tablet of Lorazepam and not charted as having been given to the patient. There is one (1)
20 0.5mg tablet Lorazepam unaccounted for.

21 d. Summary: Respondent removed two (2) 0.5mg tablets of Lorazepam, one (1) is
22 charted as given 1 hour and 23 minutes after being removed, and one (1) is unaccounted for.

23 32. Patient FIN 9026860:

24 a. The physician's order(s) for this patient were as follows: Vicodin 5/500mg 2
25 tablets every 4-6 hours as needed for pain.

26 b. On February 28, 2009, at 0903 hours, Respondent withdrew from Pyxis two
27 5/500mg tablets of Hydrocodone and charted on the MAR that she administered the medication at
28 0911 hours. The medication was given with a charted "0" pain level.

1 c. On February 28, 2009, at 1128 hours, Respondent withdrew from Pyxis two
2 5/500mg tablets of Hydrocodone and charted on the MAR that she administered the medication at
3 1200 hours. The medication was given with a charted "0" pain level and removed and given 2
4 hours 49 minutes after the previous dose, not every 4-6 hours as needed for pain per the
5 physician's orders.

6 d. On February 28, 2009, at 1517 hours, Respondent withdrew from Pyxis two
7 5/500mg tablets of Hydrocodone. The medication was not charged as having been given. Two
8 (2) 5/500 tablets of Hydrocodone are unaccounted for.

9 e. Summary: Respondent removed six (6) 5/500 mg. tablets of Hydrocodone, four
10 (4) are charted as given with "0" pain level, and two (2) are unaccounted for. The second dose
11 was given 2 hours 49 minutes after the previous dose, not every 4-6 hours as needed for pain, as
12 ordered by the physician.

13 33. Patient FIN 9032256:

14 a. The physician's order(s) for this patient were as follows: Vicodin 5/500mg 1
15 tablet every 4 hours as needed for pain.

16 b. On February 28, 2009, at 0925 hours, Respondent withdrew from Pyxis one
17 5/500mg tablets of Hydrocodone and charted on the MAR that she administered the medication at
18 1014 hours. The medication was charted as given with no pain assessment and removed 49
19 minutes before given.

20 c. On February 28, 2009, at 1141 hours, Respondent withdrew from Pyxis one
21 5/500mg tablets of Hydrocodone and charted on the MAR that she administered the medication at
22 1148 hours. The medication was charted as given with "0" pain level, and removed and given 1
23 hour 34 minutes after the previous dose, not every four hours as needed for pain per the
24 physician's orders.

25 d. Summary: On November 28, 2009, Respondent removed two (2) 5/500 tablets
26 of Hydrocodone, two (2) were charted as given with "0" pain level and second tablet was
27 administered 1 hour 34 minutes after the first dose given.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(False Entries in Hospital/Patient Records)**

3 34. Respondent is subject to disciplinary action under section 2761(a), on the grounds
4 of unprofessional conduct, as defined in Code section 2762(e), in that between or about
5 February 3, 2009 and February 28, 2009, while on duty as a registered nurse at Palomar Medical
6 Center, Escondido, California, Respondent falsified, or made grossly incorrect, grossly
7 inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the
8 controlled substances Hydrocodone and Lorazepam, as is more fully detailed in paragraphs 15
9 through 33, above, which are incorporated herein by reference.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Obtain or Possess Controlled Substances)**

12 35. Respondent is subject to disciplinary action pursuant to Code section 2761(a), on the
13 grounds of unprofessional conduct, as defined by Code section 2762(a), in that between or about
14 February 3, 2009 and February 28, 2009, while on duty as a registered nurse at Palomar Medical
15 Center, Escondido, California, Respondent obtained and possessed the controlled substances
16 Hydrocodone and Lorazepam, in violation of Code section 4060 and Health and Safety Code
17 sections 11170 and 11173, as is set forth in paragraphs 15 through 33, above, which are
18 incorporated herein by reference.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 748793, issued to
23 Christine Marie Nowicki;

24 2. Ordering Christine Marie Nowicki to pay the Board of Registered Nursing the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: _____

6/25/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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